

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BRENDAN McKOWN,

Plaintiff,

v.

SIMON PROPERTY GROUP, INC.,
d/b/a Tacoma Mall, a Delaware
corporation; and IPC INTERNATIONAL
CORPORATION, an Illinois corporation,,

Defendant.

CASE NO. C08-5754BHS

ORDER DENYING MOTION
FOR ORDER TO SHOW
CAUSE AND PROTECTIVE
ORDER

This matter comes before the Court on Defendants' (collectively "Simon") motion for an order to show cause and for a protective order (Dkt. 59). The Court has considered the pleadings filed in support of the motion and the remainder of the file and hereby denies the motion for the reasons stated herein.

I. FACTUAL AND PROCEDURAL BACKGROUND

This diversity action arises out of a November 20, 2005, shooting which occurred at the Tacoma Mall. For a more thorough factual history regarding this case see the Court's prior show cause order (Dkt. 56).

Simon moves the Court to order Dominick S. Maldonado (the shooter) to show cause why he should not be held in contempt of court for refusing to answer deposition questions. Dkt. 59. In an effort to quell any of Maldonado's fears of reprisal from


1 answering deposition questions, Simon also moves the Court to enter a protective order
2 that would prevent use of Maldonado's testimony outside of this case. *Id.*

3 The Court denies this motion without prejudice for several reasons. First, Simon
4 improperly noted the motion for the same day it was filed. *See* Local Rule 7(d). Second,
5 Simon has not adequately shown that the deposition questions sought to be answered are
6 reasonably calculated to lead to admissible evidence or that the information sought cannot
7 be otherwise obtained. *See* Fed. R. Civ. P. 26(b)(1). Finally, Maldonado's right not to
8 incriminate himself is implicated in Simon's motion and may be applicable, but this issue
9 was not briefed. *See* Dkt. 59 at 5 (reproducing deposition of Maldonado wherein Simon
10 asks if Maldonado is concerned about incriminating himself by answering the questions
11 asked).

12 Because the instant motion is improperly noted and inadequately briefed, the Court
13 denies the motion without prejudice. In the event Simon renews this motion, the Court
14 expects that (1) it will be noted for at least three Fridays from the date of filing and
15 service; and (2) both parties will have an opportunity to brief the matter, consistent with
16 this order.
17

18 Therefore, it is hereby **ORDERED** that Simon's motion to order Maldonado to
19 show cause and for a protective order (Dkt. 59) is **DENIED** without prejudice as
20 discussed herein.

21 DATED this 30th day of July, 2010.

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23 
24 BENJAMIN H. SETTLE
25 United States District Judge
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